

1 COOLEY LLP
HEIDI L. KEEFE (178960) (hkeefe@cooley.com)
2 MARK R. WEINSTEIN (193043) (mweinstein@cooley.com)
RONALD S. LEMIEUX (120822) (rlemieux@cooley.com)
3 KYLE D. CHEN (239501) (kyle.chen@cooley.com)
Five Palo Alto Square, 4th Floor
4 3000 El Camino Real
Palo Alto, California 94306-2155
5 Telephone: (650) 843-5000
Facsimile: (650) 857-0663
6
STEPHEN R. SMITH (*pro hac vice*) (stephen.smith@cooley.com)
7 One Freedom Square
Reston Town Center
8 11951 Freedom Drive
Reston, VA 20190-5656
9 Telephone: (703) 456-8000
Facsimile: (703) 456-8100
10
Attorneys for Plaintiffs
11 HTC CORPORATION and
HTC AMERICA, INC.
12

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 HTC CORPORATION and HTC
17 AMERICA, INC.,
18 Plaintiffs,
19 v.
20 TECHNOLOGY PROPERTIES
LIMITED, PATRIOT SCIENTIFIC
21 CORPORATION and ALLIACENSE
LIMITED,
22 Defendants.
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Case No. 5:08-cv-00882 PSG

[Related to Case No. 5:08-cv-00877 PSG]

**EMERGENCY MOTION FOR CURATIVE
INSTRUCTION**

Complaint Filed: February 8, 2008
Trial Date: September 23, 2013

Date: September 27, 2013
Time: 9:00 a.m.
Place: Courtroom 5, 4th Floor
Judge: Hon. Paul S. Grewal

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that Plaintiffs HTC Corporation and HTC America, Inc. (collectively, “HTC” or “Plaintiffs”) move, on an emergency basis, pursuant to Civil Local Rules 6-3 and 7-11, for a curative instruction based on the prejudice HTC has suffered from Defendants’ disregard of the Court’s ruling on September 25, 2013.

This Motion is based on the Memorandum of Points and Authorities set forth below, the occurrences at trial on September 25, 2013 and September 26, 2013, and such other matters as may be presented at the hearing on this motion and allowed by the Court.

MEMORANDUM OF POINTS AND AUTHORITIES

On September 26, 2013, Defendants Technology Properties Ltd., Patriot Scientific Corporation, and Alliacense Ltd. (collectively, “TPL” or “Defendants”) disregarded the Court’s September 25, 2013 ruling to exclude Dr. Oklobozija from testifying regarding the quality of the ’336 Patent and whether all high-speed microprocessors use the clocking scheme covered by the ’336 Patent. *See* September 25, 2013 Trial Tr. 586:16-21 (“The Court: . . . I’m going to sustain the objection. Let’s focus on the microprocessor that we’re here to talk about and ignore the others. All right? So if you want to go down this road and limit yourself to that opinion, I will let you do that, but I’m going to let them get into the ITC if you go there.”). TPL responded: “Thank you, Your Honor. We’ll go a different direction.” *Id.* at 586:23-24.

The very next day, TPL displayed a slide to the jury stating “[t]he ’336 Patent is a critical piece of the MMP Portfolio because nearly all high-speed microprocessors must use the clocking scheme covered by the ’336 Patent.” *See* DDX-348. Not only is this statement untrue but it shows a disregard for the Court’s ruling. TPL’s misrepresentation to the jury prejudices HTC and thus the Court invited HTC to propose a curative instruction. To that end, HTC proposes the following curative instruction for the unfair prejudice HTC has suffered:

TPL has attempted to introduce testimony that nearly all high-speed microprocessors must use the clocking scheme covered by the ’336 Patent. TPL has no evidence to support that testimony. You are therefore instructed to disregard any such testimony, or any references to any such testimony, you may have heard in this case.

1 Dated: September 27, 2013

Respectfully submitted,

2 COOLEY LLP
3 HEIDI L. KEEFE
4 MARK R. WEINSTEIN
5 RONALD S. LEMIEUX
6 STEPHEN R. SMITH
7 KYLE D. CHEN

By: /s/ Kyle D. Chen

Attorneys for HTC CORPORATION and
HTC AMERICA, INC.